

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 41, “Special Education,” Iowa Administrative Code.

Based on technical assistance received from the United States Department of Education, the State Board of Education proposes these amendments to clarify that enforcement actions taken by the Department are mandatory, not permissive. These amendments conform to the Department’s current practice.

An agencywide waiver provision is provided in 281—Chapter 4.

Two public hearings will be held. The first will be on October 26, 2010, from 2 to 3 p.m., and the second will be on November 2, 2010, from 2 to 3 p.m., at which time persons may present their views either orally or in writing. Both hearings will be in the State Board Room on the second floor of the Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

All persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs by calling (515)281-5295.

Interested individuals may make written comments on the proposed amendments on or before November 2, 2010, at 4:30 p.m. Comments on the proposed amendments should be directed to Thomas Mayes, Legal Consultant, Bureau of Student and Family Support Services, Iowa Department of Education, Third Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)242-5614; E-mail Thomas.Mayes@iowa.gov; or fax (515)242-6019.

These amendments are intended to implement Iowa Code chapter 256B and 34 CFR Part 300.

The following amendments are proposed.

ITEM 1. Amend subrule 41.604(1), introductory paragraph, as follows:

41.604(1) Needs assistance. If the state determines for two consecutive years that an LEA or AEA needs assistance under 41.603(2)“b” in implementing the requirements of Part B of the Act, the state ~~may~~ shall take one or more of the following actions:

ITEM 2. Amend paragraph **41.604(2)“b”** as follows:

b. The state ~~may~~ shall take one or more of the following actions:

(1) Require the LEA or AEA to prepare a corrective action plan or improvement plan if the state determines that the LEA or AEA should be able to correct the problem within one year.

(2) Withhold, in whole or in part, any further payments to the AEA or LEA under Part B of the Act.

ITEM 3. Amend subrule 41.604(3), introductory paragraph, as follows:

41.604(3) Needs substantial intervention. Notwithstanding subrule 41.604(1) or 41.604(2), at any time that the state determines that an LEA or AEA needs substantial intervention in implementing the requirements of Part B of the Act or of this chapter or that there is a substantial failure to comply with any condition of an LEA’s eligibility or an AEA’s eligibility under Part B of the Act or this chapter, the state ~~may~~ shall take one or more of the following actions: